

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STEVE ROBERT DURAN,

Applicant,

v.

CIV 10-0743 JB/GBW

ERASMO BRAVO, Warden,  
Guadalupe County Correctional  
Facility, and GARY KING, New Mexico  
Attorney General,

Respondents.

**ORDER DENYING MOTION FOR EVIDENTIARY HEARING**

THIS MATTER is before the Court on Petitioner's Motion for an Evidentiary Hearing. *Doc. 16*.


In a habeas proceeding, if the prisoner has developed a claim, a hearing is appropriate where the allegations, "if true, would entitle [the prisoner] to federal habeas relief." *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007). Consistent with this standard, "an evidentiary hearing is unnecessary if the claim can be resolved on the record." *Anderson v. Att'y Gen. of Kan.*, 425 F.3d 853, 859 (10th Cir.2005).

On May 26, 2011, the undersigned filed Proposed Findings and Recommended Disposition ("PFRD"). *Doc. 31*. In the PFRD, the undersigned concludes that the Petition

can be resolved on the record. *Id.* As such, no evidentiary hearing is necessary.

The Court notes that Petitioner has filed 301 pages of objections to the PFRD. If, after a review of those objections, the Court concludes that an evidentiary hearing is necessary, one will be ordered. However, at this time, the Motion for Evidentiary Hearing is hereby denied.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read "J. B. White", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE